

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of Section 17)
of the Cable Television)
Consumer Protection and)
Competition Act of 1992)

ET Docket No. 93-7

Compatibility Between)
Cable Systems and Consumer)
Electronics Equipment)

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**OPPOSITION AND COMMENTS OF THE
CONSUMER ELECTRONICS MANUFACTURERS ASSOCIATION
TO PETITIONS FOR FURTHER RECONSIDERATION AND CLARIFICATION**

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July 5, 1996

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SUMMARY OF POSITION

The petition for further reconsideration filed by Echelon Corporation and others is both premature and unsubstantiated. It is premature because there is no Decoder Interface standard now before the Commission. Absent a concrete standard, it is premature, and therefore impossible, to debate whether the Decoder Interface complies with the Communications Act, as amended by the 1996 Telecommunications Act. Echelon's petition is unsubstantiated because Echelon has not even attempted to explain how or why the Decoder Interface, as described by the Commission and as now being developed by CEMA and others, exceeds the Commission's authority under the Communications Act.

Echelon's petition should also be denied because it is based on an overly broad, and thus incorrect, reading of Section 301(f) of the 1996 Act and a myopic, and thus legally untenable, view of the Commission's two decisions in this proceeding. Contrary to Echelon's claims, Section 301(f) does not mandate narrow technical standards, nor does it strictly limit the number of factors which the Commission may consider in implementing Section 17 of the Cable Act. But even if it did, the Decoder Interface will enhance competition as contemplated by new Sections 624A(a)(4) and 624A(c) of the Act. Echelon has also failed to explain why the Decoder Interface is inconsistent with the requirements of new Section 624A(c)(2)(D).

Even assuming that the Decoder Interface were somehow inconsistent with Section 624A, Echelon's request for relief should still be denied. Section 624A(c)(2)(D) is, by its terms, limited to rules "developed under the authority of this section." As the *First Report and Order* and *Reconsideration Order* make clear, the rules adopted in this proceeding -- including the specification of a Decoder Interface -- were developed pursuant to Sections 2, 3, 4, 7, 301,

302, 303, 304, 307, 308, 309 and 624A of the Communications Act. This should not be surprising. The Decoder Interface, after all, is intended to provide consumers with access not only to cable television programming, but also to competing video delivery systems such as direct broadcast satellite and wireless cable.

Whatever doubt there may be as to the consequences of Section 301(f) is dispelled by reference to Section 304 of the 1996 Act, which directs the Commission "to assure the commercial availability" of equipment used to access services offered by video delivery systems. As the legislative history underlying Section 304 makes unmistakably clear, Section 301(f) does not "restrict the Commission's authority to promote the competitive availability" of such equipment. The Commission thus has statutory authority to adopt the Decoder Interface to achieve the goals of Section 304.

CEMA does not understand the petition for clarification filed by General Instrument to challenge the Commission's determination that cable operators must make available to subscribers component descramblers that do not perform any functions unrelated to descrambling. Rather, General Instrument has asked that the Commission specify those functions related to descrambling which may be performed by component descramblers. CEMA concurs with General Instrument's assessment that component descramblers should be permitted to communicate with the television receiver, the cable system head-end and the subscriber, *to the extent necessary to support basic descrambling*. Communications functionality within component descramblers, however, should not be used to provide such features as on-screen programming guides, which are unrelated to the descrambling function and, therefore, should be offered on a competitive basis. A simple rule of thumb ought to be that, if a feature

performs a stand-alone function that is usable and identifiable by a consumer, it should not be offered as part of the component descrambler.

The Commission should deny General Instrument's request for clarification to the extent that General Instrument has failed to provide adequate information about specific functions, such as "evolving cable network technologies," to enable the Commission to make an informed determination.

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**OPPOSITION AND COMMENTS OF THE
CONSUMER ELECTRONICS MANUFACTURERS ASSOCIATION
TO PETITIONS FOR FURTHER RECONSIDERATION AND CLARIFICATION**

The television and video cassette recorder manufacturers of the Consumer Electronics Manufacturers Association ("CEMA") hereby reply to the petitions for further reconsideration and clarification that were filed in response to the Commission's Memorandum Opinion and Order ("*Reconsideration Order*") in the above-captioned proceeding on May 28, 1996.¹ As set forth more fully below, CEMA opposes the joint petition for further reconsideration filed by Echelon Corporation and others (collectively "Echelon"), which asserts that Section 301(f) of the Telecommunications Act of 1996 (the "1996 Act") precludes adoption of the Decoder Interface described by the Commission's *First Report and Order*² and

¹ See *Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992, Compatibility Between Cable Systems and Consumer Electronics Equipment*, Memorandum Opinion and Order, ET Docket No. 93-7, FCC 96-129 (released Apr. 10, 1996) [hereinafter "*Reconsideration Order*"].

² See *Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992, Compatibility Between Cable Systems and Consumer Electronics*

Reconsideration Order in this proceeding.³ CEMA does not oppose the petition for clarification filed by General Instrument Corporation ("General Instrument") which, if correctly understood by CEMA, asks the Commission to clarify that component descramblers may perform certain limited functions necessary to the descrambling of video signals.⁴

I. IDENTIFICATION AND INTEREST OF CEMA

CEMA, formerly known as the Consumer Electronics Group of the Electronic Industries Association, is the principal trade association of the consumer electronics industry. As the Commission is well aware, CEMA, along with the National Cable Television Association ("NCTA"), has been actively involved in the development of the Decoder Interface contemplated by the Commission's *First Report and Order*. CEMA believes that the Decoder Interface, which will help ensure compatibility between video delivery systems and consumer electronics equipment, will promote competition not only in the consumer electronics marketplace, but also in the delivery of new and innovative video programming services to the public.

Equipment, First Report and Order, 9 FCC Rcd 1981 (1994) [hereinafter "*First Report and Order*"].

³ See Joint Petition For Further Reconsideration, ET Docket No. 93-7 (filed May 28, 1996) [hereinafter "Echelon Petition"].

⁴ See Petition for Clarification of General Instrument Corporation, ET Docket No. 93-7 (filed May 28, 1996) [hereinafter "General Instrument Petition"].

II. THE COMMISSION SHOULD DENY ECHELON'S PETITION FOR FURTHER RECONSIDERATION

A. Echelon's Request for Reconsideration Is Premature.

In its petition, Echelon has asked the Commission to "reevaluate the appropriateness of the so-called 'Decoder Interface' as a standard for cable compatibility."⁵ According to Echelon, the Telecommunications Act of 1996⁶ "raise[s] serious questions whether the Decoder Interface, as proposed by C3AG and as currently being developed by the JEC, could lawfully be adopted by the Commission."⁷ Echelon's request for relief is, at best, premature.

As the Commission knows⁸ and as Echelon is forced to concede,⁹ there is no proposal now before the Commission for a Decoder Interface standard. Although CEMA and NCTA filed a partial draft standard with the Commission on August 15, 1994,¹⁰ CEMA subsequently withdrew its support for that standard.¹¹ And, while CEMA and NCTA have made substantial progress since that time in developing a complete standard for the Decoder

⁵ See Echelon Petition at 2.

⁶ See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) [hereinafter "Telecommunications Act"].

⁷ Echelon Petition at 3-4.

⁸ See *Reconsideration Order* at ¶ 38.

⁹ See Echelon Petition at 3.

¹⁰ See Letter from Jeffrey A. Campbell to William F. Caton, Acting Secretary, FCC (Aug. 15, 1994) (transmitting Decoder Interface Standard Draft IS-105).

¹¹ See Statement of the Consumer Electronics Group of the Electronic Industries Association Regarding the Decoder Interface, ET Docket No. 93-7 (filed Feb. 3, 1995).

Interface, a significant amount of work remains to be done. In the absence of a concrete standard, it is premature (and, for all practical purposes, impossible) to debate whether the Decoder Interface complies with the Communications Act, as amended by the 1996 Act. Echelon's petition for further reconsideration should therefore be summarily dismissed as premature.

B. Echelon's Request for Relief Is Unsubstantiated.

Because Echelon's petition for reconsideration is premature, it is perforce unsubstantiated. Unable to object to the details of a specific standard, Echelon is limited to making bald assertions. Echelon, for example, asserts that the Decoder Interface "is inconsistent in many ways with Section 301(f) of the 1996 Act."¹² Elsewhere in its petition, Echelon claims that the Decoder Interface would not satisfy the provisions of the Act.¹³ At no point, however, does Echelon point to any specific provisions of the Decoder Interface standard now being developed by CEMA and NCTA that violate the Communications Act.

Because no actual standard exists, Echelon is compelled to object to the concept of a Decoder Interface, "as presently envisioned."¹⁴ In the *First Report and Order*, however, the Commission established only two parameters for the Decoder Interface. First, the Commission concluded that the Decoder Interface should "provide the capability to separate signal access control functions from other functions served through the connector."¹⁵ Second,

¹² Echelon Petition at 5.

¹³ See, e.g., *id.* at 6.

¹⁴ *Id.*

¹⁵ *First Report and Order*, 9 FCC Rcd at 1988.

the Commission directed that the Decoder Interface permit "consumer access to competing video delivery systems, such as home satellite dish, Direct Broadcast Satellite and wireless cable."¹⁶ Echelon has not even attempted to explain how these two policy statements, which were left undisturbed by the *Reconsideration Order*, exceed the Commission's authority under the Communications Act. Echelon's petition should therefore be denied.

C. Echelon's Request for Relief Suffers From Too Broad a View of Section 301(f) and Too Narrow a View of the *First Report and Order* and *Reconsideration Order*.

In addition to being premature and unsubstantiated, Echelon's petition suffers from two other fatal flaws. First, it is based on an overly broad, and thus incorrect, reading of Section 301(f) of the 1996 Act. Second, Echelon's petition is predicated on a myopic, and thus legally untenable, view of the Commission's two decisions in this proceeding.

Section 301(f) of the 1996 Act, often referred to as the Eshoo amendment, modifies Section 17 of the 1992 Cable Act.¹⁷ As the Commission has often explained, Section 17 was enacted "to ensure compatibility between cable systems and consumer electronics equipment."¹⁸ Section 301(f) makes three changes in Section 17, which is now codified at Section 624A of the Communications Act.¹⁹

First, Section 301(f) adds a new Section 624A(a)(4), which embodies a finding by Congress that *cable*-consumer electronics compatibility can be achieved through the adoption

¹⁶ *Id.* at 1989.

¹⁷ See Telecommunications Act, § 301(f), 110 Stat. 116 (codified at 47 U.S.C. § 544a).

¹⁸ *Reconsideration Order* at ¶ 1 n.1 (citing Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 17, 106 Stat. 1460 (1992)).

¹⁹ See 47 U.S.C. § 544a.

of "narrow technical standards . . . leaving all features, functions, protocols, and other product and service options for selection through open competition in the market."²⁰ Contrary to Echelon's claim, this language does not "require" the Commission to *adopt* "'narrow technical standards.'"²¹ Although Section 624A(a)(4) is entitled to great weight as a congressional finding, it plainly does not *mandate* or *prohibit* any specific action. But even if it did, the Commission has directed that the Decoder Interface be designed so as to "allow non-security functions to be provided through new products offered by retail vendors or to be incorporated into TV receivers or VCRs, thereby promoting competition in the market for equipment used to receive cable service."²² In other words, as contemplated by new Section 624A(a)(4), the Decoder Interface will "leav[e] all features, functions, protocols, and other product and service options for selection through open competition in the market."

Second, Section 301(f) adds a provision to Section 624A(c) that requires the Commission to consider certain factors in prescribing regulations under this section. In particular, the Commission is directed to consider "the need to maximize open competition in the market for all features, functions, protocols, and other product and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals."²³ Again, contrary to what Echelon would have the Commission believe, this is but one of several factors which the Commission is directed to consider. More important,

²⁰ *Id.* § 544a(a)(4).

²¹ Echelon Petition at 3.

²² *Reconsideration Order* at ¶ 30.

²³ 47 U.S.C. § 544a(c)(1)(A).

the Decoder Interface will in fact "maximize open competition" in the provision of non-security functions. As the Commission has clearly stated, the Decoder Interface will "separate signal access control functions [*i.e.*, "descrambling or decryption"] from other functions [*i.e.*, "all features, functions protocols, and other product and service options"] served through the connector,"²⁴ so that the market for the latter "is open to all parties."²⁵

The third provision added to Section 624A requires the Commission "to ensure that any standards or regulations *developed under the authority of this section* to ensure compatibility between televisions, video cassette recorders, and cable systems do not affect features, functions, protocols, and other product and service options other than those specified in paragraph (1)(B), including telecommunications interface equipment, home automation communications, and computer network services."²⁶ "As used in Section 624A of the Communications Act, the term 'affect' means to produce *a material influence upon, or alteration in*, such features, functions, protocols, and other product and service options."²⁷ Although Echelon asserts that the Decoder Interface violates this provision of the Act, it never explains

²⁴ *First Report and Order*, 9 FCC Rcd at 1988.

²⁵ *Reconsideration Order* at ¶ 38.

²⁶ 47 U.S.C. § 544a(c)(2)(D) (emphasis added). Paragraph (1)(B), as amended, directs the Commission to consider the costs and benefits to consumers of "imposing compatibility requirements on cable operators and television manufacturers" that minimize interference with the functions and features of televisions and video cassette recorders, "including functions that permit the subscriber -- (i) to watch a program on one channel while simultaneously using a video cassette recorder to tape a program on another channel; (ii) to use a video cassette recorder to tape two consecutive programs that appear on different channels; and (iii) to use advanced television picture generation and display features." *Id.* § 544a(c)(1)(B).

²⁷ H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. 170 (1996) (emphasis added).

how or why the Decoder Interface produces "a material influence upon, or alteration in, such features, functions, protocols, and other product and service options." Given Echelon's failure of proof, the Commission need not address whether the Decoder Interface would result in such an impermissible "material influence" or "alteration."

But even assuming that the Decoder Interface did produce such a result, Echelon's request for relief must still be denied. Section 624A(c)(2)(D) is, by its terms, a statute of limited applicability; it addresses the Commission's discretion to prescribe standards or regulations "*developed under the authority of this section.*" Much as Echelon might want it otherwise, these are words of limitation.

As the courts have repeatedly found, "the starting point" in statutory interpretation "is 'the language [of the statute] itself.'"²⁸ If the language at issue has a plain and ordinary meaning, "there is a strong presumption 'that the legislative purpose is expressed by the ordinary meaning of the [statutory] words used.'"²⁹ This "'strong presumption' that the plain language of the statute expresses congressional intent is rebutted only in 'rare and exceptional circumstances.'"³⁰

²⁸ *United States v. James*, 478 U.S. 597, 604 (1986) (quoting *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723, 756 (1975) (Powell, J., concurring)).

²⁹ *Escobar v. INS*, 935 F.2d 650, 652-53 (4th Cir. 1991) (quoting *American Tobacco Co. v. Patterson*, 456 U.S. 63, 68 (1982)).

³⁰ *Ardestani v. INS*, 502 U.S. 129, 135 (1991) (quoting *Rubin v. United States*, 449 U.S. 424, 430 (1981)).

Applying these principles, the courts have consistently interpreted language such as "under Section 554"³¹ and "under this chapter"³² to be words of limitation. More specifically, they have uniformly concluded that "under" means "governed by,"³³ "'subject [or pursuant] to' or 'by reason of the authority of.'"³⁴ Section 624A(c)(2)(D)'s use of the phrase "developed under authority of this section" thus cannot be disregarded and must be given its plain and ordinary meaning. The language of Section 624A(c)(2)(D), therefore, applies only to regulations issued by the Commission acting "by reason of the authority" conferred upon it by Section 624A.

As the Commission's *First Report and Order* and *Reconsideration Order* make clear, however, the rules adopted in this proceeding were not developed solely "under the authority of" Section 624A. Rather, in prescribing these rules, the Commission specifically referenced Sections 2, 3, 4, 7, 301, 302, 303, 304, 307, 308, 309, and 624A of the Communications Act, as amended.³⁵ The Commission's referencing of these provisions should not be surprising. Indeed, the Commission could have added others. As the Commission's *First Report and Order* and *Reconsideration Order* make clear, the Decoder Interface is being developed to provide consumers with access not only to cable television programming, but also

³¹ *Ardestani v. INS*, 502 U.S. at 136-37; *Escobar v. INS*, 935 F.2d at 653; *St. Louis Fuel & Supply Co., Inc. v. FERC*, 890 F.2d 446, 450-51 (D.C. Cir. 1989).

³² *Green v. Brantley*, 981 F.2d 514, 518-19 (11th Cir. 1993).

³³ *Ardestani v. INS*, 502 U.S. at 135.

³⁴ *St. Louis Fuel & Supply Co. v. FERC*, 890 F.2d at 450.

³⁵ See *First Report and Order*, 9 FCC Rcd at 2005 & Appendix A; *Reconsideration Order* at ¶ 67 & Appendix A.

to competing video delivery systems such as home satellite dish, direct broadcast satellite, video dialtone (now open video systems), and wireless cable.³⁶

Plainly, the Congress, in amending Section 624A did not intend to repeal, by implication, all of the Commission's authority with respect to competing video programming services. It is well-settled "that repeals by implication are not favored."³⁷ As the Supreme Court has stated, "in the absence of some affirmative showing of an intention to repeal, the only permissible justification for a repeal by implication is when the earlier and later statutes are irreconcilable."³⁸ Thus, in interpreting the impact of Section 301(f) on the other provisions of the Communications Act, reviewing courts "are not at liberty to pick and choose among congressional enactments, and when two statutes are capable of co-existence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective. 'When there are two acts upon the same subject, the rule is to give effect to both if possible.'³⁹ Applying this principle, Section 624A cannot be read to restrict the Commission's ability to promote compatibility between consumer electronics equipment and non-cable video delivery systems.

Whatever doubt there may be as to the consequences of Section 301(f) is dispelled by reference to Section 304 of the 1996 Act, which grants the Commission expansive authority

³⁶ See, e.g., *First Report and Order*, 9 FCC Rcd at 1987 ("The new Decoder Interface standard is also being designed to accommodate further advances in video transmission systems and services.").

³⁷ *Morton v. Mancari*, 417 U.S. 535, 549 (1974) (quoting *Posadas v. National City Bank*, 296 U.S. 497, 503 (1936)).

³⁸ *Morton v. Mancari*, 417 U.S. at 550.

³⁹ *Id.* at 551 (quoting *United States v. Borden*, 308 U.S. 188, 198 (1939)).

"to assure the commercial availability . . . of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems."⁴⁰ "One purpose of this section," the Conference Report observes, "is to help ensure that consumers are not forced to purchase or lease a specific, proprietary converter box, interactive device or other equipment from the cable system or network operator."⁴¹ Adoption of the Decoder Interface would facilitate the achievement of this goal by permitting equipment manufacturers to produce non-security-related equipment and functionalities that are interoperable with multiple video delivery systems.

The authority conferred upon the Commission by Section 304, which now appears as Section 629 of the Communications Act, is not limited, except to the extent that the Commission is required to consult with industry standards-setting organizations.⁴² The House Report, moreover, provides clear and specific evidence that, in implementing new Section 629, the Commission is not constrained by Section 624A. As the House Report explains, the Eshoo amendment

is not intended to restrict the Commission's authority to promote the competitive availability of converter boxes, interactive communications devices, and other customer premises equipment.⁴³

⁴⁰ Telecommunications Act, § 304, 110 Stat. 125 (codified at 47 U.S.C. § 549(a)).

⁴¹ H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. 181 (1996).

⁴² See 47 U.S.C. § 549(a).

⁴³ H.R. Rep. No. 204, 104th Cong., 1st Sess. 111 (1995). The House Commerce Committee reported this language as part of its discussion of the Eshoo amendment. Congress adopted the Eshoo amendment unchanged from the text approved by the House.

Indeed, the House Report goes further and states that "the Committee does not intend that [the Eshoo amendment] *in any way* limits or circumscribes Commission authority" under new Section 629.⁴⁴ There should thus be no doubt that the Commission has the statutory authority to use the Decoder Interface to achieve the goals of Section 629.

Because Echelon's petition is based on a fatal misunderstanding of the limited reach of Section 624A and the Commission's broad statutory authority to promote compatibility between consumer electronics equipment and multichannel video programming systems, its petition for further reconsideration should be denied.

⁴⁴ *Id.* at 113 (emphasis added). In contrast to the Committee Report language that unambiguously directs the Commission to implement the broad authority conferred upon it by Section 629, unfettered by Section 624A, Echelon cites remarks by Representative Eshoo purportedly made during floor debate on the 1996 Act as evidence that the Eshoo amendment prevents adoption of the Decoder Interface. *See* Echelon Petition at 6 & 7. Contrary to Echelon's claim, these remarks were not made during the floor debate; rather, they were after-the-fact written statements submitted for the record. *See* 142 Cong. Rec. H1141 (daily ed. Feb. 1, 1996) (explaining that the typeface in which the quoted material appears indicates that the statements were "inserted or appended, rather than spoken."). Even if Representative Eshoo had made these remarks, floor statements are generally accorded very little weight in determining congressional intent. *See Bath Iron Works Corp. v. Director, Office of Workers' Compensation Programs*, 506 U.S. 153, 166 (1993); *see also* 2A Sutherland, *Statutory Construction*, § 48.13 (5th ed. 1991). The courts have held that congressional intent should not be inferred from floor statements -- even those offered by the sponsor of a bill -- if they are inconsistent with statutory language and other legislative history, such as a Committee Report. *See DeVargas v. Mason & Hanger-Silas Mason Co., Inc.*, 911 F.2d 1377, 1386-87 (10th Cir. 1990), *cert. denied*, 498 U.S. 1074 (1991).

III. THE COMMISSION SHOULD CLARIFY THE *RECONSIDERATION ORDER* AS IT RELATES TO COMPONENT DESCRAMBLERS

In its petition, General Instrument has asked the Commission to clarify the functions which a component descrambler may perform consistent with the requirements of the *Reconsideration Order*. General Instrument's request is prompted by the Commission's decision to "require cable operators to offer component descramblers that perform only signal security functions" and "require that the Decoder Interface be designed to enable all functions other than security control to be provided in competitively supplied equipment."⁴⁵ CEMA does not understand General Instrument's petition to challenge the Commission's determination that cable operators must make available to subscribers component descramblers that do not perform any functions unrelated to descrambling,⁴⁶ and the Commission should unequivocally reaffirm that requirement. CEMA does understand General Instrument to request more limited relief, namely, the specification of those functions related to descrambling which may be performed by component descramblers. Based on this understanding, CEMA supports General Instrument's request for clarification. All concerned will benefit from a clear understanding of the functions that may be properly performed by component descramblers.

CEMA concurs in General Instrument's assessment that component descramblers must be able to communicate with the television receiver, the cable system head-end and the subscriber, *to the extent necessary to support basic descrambling*.⁴⁷ Such functionality, for

⁴⁵ *Reconsideration Order* at ¶ 38.

⁴⁶ General Instrument Petition at 2-3 n.3.

⁴⁷ *See id.* at 6.

example, may be appropriate to permit subscribers to order pay-per-view programming, to force-tune the receiver's tuner to the proper channel to view such programming,⁴⁸ and to capture billing information. Communication functionality within the component descrambler, however, may not be used to provide such features as on-screen programming guides, which are unrelated to the descrambling function and, therefore, must be offered on a competitive basis. Likewise, channel mapping capability may be included in the component descrambler so long as its use directly relates to the descrambling function. A simple rule of thumb ought to be that, if a feature performs a stand-alone function that is usable and identifiable by a consumer, it should not be offered as part of the component descrambler.

General Instrument also seeks inclusion of "evolving cable network technologies" in the component descrambler, as well as such functions as "on-screen menus," "other head-end originated messages," addressed authorization messages, management of the use of upstream bandwidth, and isolation of one subscriber from another.⁴⁹ General Instrument, however, has failed to provide enough information about these functions to enable the Commission to make a determination whether they may be properly performed by a component descrambler. The Commission should take care to avoid the "slippery slope" of including non-security functions in the component descrambler. If such functionality is included in the descrambler, the very purpose of such devices would be defeated. As the Commission explained in the *First Report and Order*, component descramblers should "allow non-security functions to be provided through

⁴⁸ See *id.* at 6-7.

⁴⁹ *Id.* at 8-11.

new products offered by retail vendors or to be incorporated into TV receivers and VCRs, thereby promoting competition" in the provision of such functions and equipment.⁵⁰

⁵⁰ *First Report and Order*, 9 FCC Rcd at 1988-1989. CEMA does not oppose development and distribution of a bundled module that combines both security and other functions, provided that video delivery systems offer consumers a basic component descrambler as well. Such an approach comports with the Communications Act and benefits consumers by offering them several alternatives from which to choose the combination of service and functionality that best meets their needs.

IV. CONCLUSION

For all the reasons set forth above, the Commission should deny Echelon's petition for further reconsideration and grant General Instrument's petition for clarification to the extent noted above.

Respectfully submitted,

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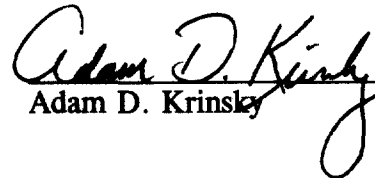
July 5, 1996

CERTIFICATE OF SERVICE

I, Adam D. Krinsky, hereby certify that a copy of the foregoing "Opposition and Comments of the Consumer Electronics Manufacturers Association to Petitions for Further Reconsideration and Clarification" was served by First-Class U.S. mail, postage prepaid, upon the parties appearing below on the 5th day of July, 1996.

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